

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chairman Littman at 7:30 p.m. on February 4, 2003, in the Lower Level Conference Room of the Troy City Hall.

1. ROLL CALL

Present

Dennis A. Kramer  
Lawrence Littman  
Cindy Pennington  
Robert Schultz  
Walter Storrs  
Mark J. Vleck  
David T. Waller

Absent

Gary Chamberlain  
Wayne Wright

Also Present

Brent Savidant, Principal Planner  
Susan Lancaster, Assistant City Attorney  
Kathy Czarnecki, Recording Secretary

**Resolution**

Moved by Pennington

Seconded by Storrs

**RESOLVED**, that Mr. Chamberlain and Mr. Wright be excused from attendance at this meeting.

Yeas

All present (7)

Absent

Chamberlain  
Wright

**MOTION CARRIED**

2. PLANNING AND DEVELOPMENT REPORT

Planning Commission Budget

A short discussion was held on the monies allocated to the Planning Commission. It was determined that the budget is based on a fiscal year ending June 30. It was noted that approximately \$10,000 remains from the previous year and that Education and Training and Books and Magazines are well allocated. Chairman Littman clarified that Personal Services is a percentage allocation for secretarial services.

### Council Action Items

Mr. Savidant reported on Council actions taken at their February 3, 2003 Regular Meeting.

*Rezoning Application Z#521, R-1C to O-1, General Office Use, located on the east side of John R, north of Long Lake Road, Section 12 – **Approved***

*Extension of Preliminary Plan Approval, Custer Estates Site Condominium, north side of Long Lake Road, east of John R, Section 12 – **Held over***

*Preliminary Site Condominium Review, Rockfield Site Condominium, north of Wattles and west of John R, Section 14, R-1C – **Approved***

*Preliminary Site Condominium Review, Freund Site Condominium, east side of Adams Road, south of Square Lake Road, Section 7, R-1A - **Postponed two weeks; Council requested detailed engineering drawings***

*Preliminary Plan Review, Crestwood Site Condominium, north of Wattles, east of Livernois, R-1C – **Approved***

*Final Plat Approval, West Oak Subdivision 1 and West Oak Subdivision 2, north of Big Beaver between Rochester Road and John R, Section 23 - **Approved***

*Televising of Planning Commission Special/Study Meetings – **Held over***

*Civic Center Site Plan Elements – **Mr. Savidant passed out a “draft” Resolution.***

Mr. Schultz said that he attended a portion of the Council meeting and watched the remaining televised session on the Civic Center Site Plan. Mr. Schultz pointed out what he sees as two misconceptions to the verbiage of the “draft” Resolution: (1) reference to the performing arts center up to 2500 seats being acceptable, should indicate that no performing arts center was preferred; and (2) reference to state funding for up to \$1M should indicate a minimum of \$1M.

Mr. Schultz indicated that the two opposing votes to the Resolution were Councilman Eisenbacher who indicated that he did not know how much money would be spent on consultancies prior to the referendum and Councilman Howrylak who is opposed to private enterprise on public property.

### 3. ETHICAL CONSIDERATIONS

Chairman Littman stated that he became aware of ethical issues at the onset of the last Special/Study Meeting when the petitioner for a proposed development requested a meeting with him. Chairman Littman said he learned then that a Commissioner is not suppose to individually meet or talk with any developer. He assumed that other

Commissioners were not aware of this, as he was not, and asked that ethics be addressed.

Ms. Lancaster explained that her memo addresses ex parte communications, noting that she has attached a number of articles and cases dealing with the issue and various articles that examine the ethics of ex parte communications. She said that an ex parte communication is any discussion that takes place outside of a public hearing. Ms. Lancaster confirmed there are no laws and no State statutes that address ethics. She said there are some laws that touch upon things like this, citing a list of boards and commissions that one cannot serve on at the same time.

Ms. Lancaster suggested avoiding ex parte communications with anyone. Her suggestion is to tell the developer, the neighbor, or whomever, you are uncomfortable discussing the matter and encourage him/her to express concerns at a public meeting. Ms. Lancaster said it all comes down to making a judgment call. Ms. Lancaster noted there are exceptions to ex parte communications, citing a conversation with a "lobbyist" to discuss legislation is one exception. She stipulated that any exchange of money or accepting a gift is not acceptable.

Ms. Lancaster checked with the City Attorney and confirmed that Council has adopted no City code of ethics. Council has asked the City Attorney to research the matter for possible adoption.

Ms. Lancaster said if there were an interest on the part of the Commission, she would follow through with the topic of "conflicts of interest".

Chairman Littman questioned if there have been any cases in which the City has been sued.

Ms. Lancaster relayed a personal experience she had at her employment with the City of Madison Heights. It involved a very heavily contested public matter with a developer whose project was denied by both the Planning Commission and Council. The Judge excluded a Commissioner from any future public hearings because the Commissioner made very vocal remarks about the developer to the public. The Judge said that a Commissioner, as a public official, should not address the public about public issues.

Chairman Littman opened the floor for questions and asked the Commission if they would be interested in obtaining more information on ethics.

Ms. Lancaster fielded various questions from the Board. She encouraged the Commissioners to forward any developer concerns to Mr. Miller to handle. She suggested visualizing a recorded or televised conversation and thinking how you would want the conversation to be heard.

Mr. Vleck stated that the information provided tonight is very useful and would like additional information.

Ms. Pennington stated the material is very informative, and noted it is difficult to follow the ethics guidelines especially when reviewing sites. She also said that being a BZA representative places one in the very same position.

Mr. Waller said he would like more information on a person serving on one or more boards or commissions. He also said that Planning Commission members should be held at no higher or lower standard than Council members.

Mr. Schultz agreed he would like more information on the subject, especially the list of boards and commissions to which a person cannot serve at the same time.

Mr. Kramer noted there should be a flip side to ex parte communications wherein a Commissioner might speak as an individual citizen to other Boards; i.e., speaking to the Traffic Committee with respect to a neighborhood traffic concern. He is in favor of receiving further information on the subject.

Mr. Storrs stated he would like to see a summary of conflicts of interests.

Mr. Littman believes a set of ethics should be adopted and be applicable to all public officials. He asked Ms. Lancaster to provide the Commission with a summary of conflicts of interests for the next Special/Study Meeting.

4. ORDINANCE REVISION DISCUSSION – Height Limits for Amateur Radio Antennas (ZOTA #180)

Mr. Kramer reported the Sub-committee should address some housekeeping items on the proposed ordinance text.

Mr. Savidant presented comments on the draft text from both the ZBA Attorney and the Director of Building and Zoning. He suggested that their comments needed to be incorporated into the text.

Mr. Vleck believes the committee is not addressing the directive given by Council. His understanding of the Council directive is to increase the height of an antenna so matters relating to antenna heights are not required to go before the Board of Zoning of Appeals. Because the committee has not agreed on increasing the height of an antenna, Mr. Vleck believes the committee should state its reasons why the antenna height cannot be increased.

Discussion followed.

Ms. Lancaster distributed a Federal District Court opinion on ham radios, dated January 3, that she thought the Commission would find of interest. She noted that it appears the City's current ordinance and proposed changes are constitutional. Lancaster cites that the Planning Commission can take into consideration concerns of surrounding neighbors and the impact on aesthetics.

Chairman Littman applauded the committee's work. He stated that the question remains whether an antenna height should be increased.

Mr. Kramer stated his opinion is that any structure higher than other structures in a residential district should go before the BZA, from the standpoint that it is out of character in a residential neighborhood.

Mr. Vleck said he feels the height of an antenna should be increased, noting there is no valid argument that an antenna detracts from aesthetic value of the neighborhood.

It was determined that the committee should continue its study and agreed to meet at 7:00 p.m. on February 25, prior to the scheduled Special/Study Meeting. A tentative public hearing date would be in April.

Ms. Lancaster encouraged members to view the videotape of the Hazel Park Amateur Radio Club that Phil Ode provided to the Planning Department.

Ms. Lancaster and Mr. Savidant agreed to work on bullet points as background information for the proposed text amendments.

#### 5. WORK PROGRAM FOR PLANNING COMMISSION PROJECTS

Mr. Savidant referred to the Excel worksheet delineating a timeline for Planning Commission tasks and City Management tasks and requested the Commission to combine and prioritize the tasks.

Discussion followed.

Mr. Kramer stated concurrence in prioritizing the tasks, noting his preference would be to spend more time on long range planning.

Mr. Schultz said the work plan is a great idea, and suggested the items be digested and prioritized at a future study session.

Mr. Waller agreed with discussing, combining and prioritizing the tasks. He further applauded the task of "Uniformity of PUD Analysis".

Ms. Pennington agreed that the work plan is a great idea to discuss at a future study session, noting that priority preferences will vary among members. Ms. Pennington requested to add the Rochester Road corridor study to the list of future items to discuss.

Mr. Vleck suggested that further review be done on dumpsters. He suggested that the Commission focus on long term planning, and suggested that smart growth versus segregated planning and zoning be added to the task list.

Ms. Lancaster commented that the Commission is on the right track with planning goal-setting sessions.

Chairman Littman noted the Planning Commission and City Management are pretty much in agreement insofar as to what tasks should be undertaken, noting one exception is the review of the CR-1 Zoning District.

Chairman Littman announced that the Mayor has mentioned a Joint Meeting between Council and Planning Commission in the near future, and that the prioritized work plan could be a discussion item at that time.

Chairman Littman asked that the work plan prioritization be placed on the February 25 Special/Study Meeting agenda.

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### Road Maps

Mr. Savidant distributed maps prepared by the Engineering Department designating City, County and State roads. After a quick review, it was determined that the maps designated road maintenance jurisdiction, not road ownership.

The correct maps will be provided at the next meeting.

### Future Agenda Items

Mr. Savidant reviewed upcoming agenda items for the February 11, 2003 Regular Meeting.

*Ms. Pennington exited the meeting at 9:10 p.m.*

Mr. Vleck questioned the outcome of a street vacation that involves a public utility easement and asked if the City ever vacates only half of a street.

Ms. Lancaster responded half would go to each owner, and that the law states that the utility easement would revert back to the owner.

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## 6. PUBLIC COMMENT

Mr. Murray Scott of 3831 Kings Point, was present to speak about the height limits for amateur radio antennas. On behalf of Phil Ode, Mr. Scott returned documents to the Assistant City Attorney incorporating comments from Mr. Ode. Mr. Scott stated that the committee worked on the proposed ordinance changes based on what they thought

Council was requesting. Mr. Scott distributed copies of Mr. Ode's version of how the ordinance should be changed. He noted two considerations for the Commission to think about. (1) Some antennas are longer than 12 feet and are almost impossible to be placed on a roof; and (2) how you would feel if you were the one story house located between two 25-foot story houses with antennas.

### GOOD OF THE ORDER

Mr. Storrs reported that the Gateway Sub-committee is moving along, noting that the Parks and Recreation worked on this matter years ago and offered assistance if needed.

Mr. Schultz informed the Commission of a beautification project in the City of Livonia. Plymouth Road, in the area of Middlebelt and Merriman, has been transformed from an unattractive neighborhood to a beautiful one with brick walls, wrought iron and sandstone.

Mr. Vleck stated that a top-notch project has been developed in the area of Auburn and Squirrel Roads, where a Biltmore home development is going in.

Ms. Lancaster referenced the lawsuit on the Somerset South parking deck. She stated the case, *Frankel and Associates vs the City of Troy*, is so old that there remains only certain documents located in the Clerk's office. Ms. Lancaster, upon review of these documents, will follow up with a report to the Commission.

### ADJOURN

The Special/Study Meeting of the Planning Commission was adjourned at 9:30 p.m.

Respectfully submitted,

Mark F. Miller AICP/PCP  
Planning Director